IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 3710 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE J.R.VORA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KIRITKUMAR PARSHOTTAMDAS PATEL - Appellant(s)

Versus

VITTHALBHAI SHAMALBHAI PATEL - Respondents(s)

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Appearance :

MR JD AJMERA for Appellant(s) : 1, 1.2.1, 1.2.2, 1.2.3, 1.2.4, 1.2.5, 1.2.6,1.2.7

MR TRILOK J PATEL for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE J.R.VORA

Date : 16/09/2005

ORAL JUDGMENT

1.None present when the matter is called out.

2.This First Appeal is preferred against the Judgment and

Decree passed by the learned 3rd Joint Civil Judge(SD), Baroda in Special Civil Suit No. 295 of 1984.

3. Valuation of the said Suit is fixed by the plaintiff at Rs. 80,000/- for the purpose of jurisdiction and required Court Fees were deposited in the Suit and are paid in this appeal.

4. With coming into force the Gujarat Civil Courts Act, 2005, on 9th May 2005, appeals arising from the decrees and orders passed by the Courts of Senior Civil Judge in original suits and proceedings of civil nature shall, when such appeals are allowed by law, would lie to the Court of the District Judge of the District, when the amount or value of the subject matter of the original suits of proceedings is less than Rs. 5 Lakhs or such other sum as the High Court may from time to time specify according to Section 15(1)(a) of the Gujarat Civil Courts Act, 2005.

5. By virtue of Section 30(3) of the Gujarat Civil Courts Act, 2005, all pending appeals stand transferred to such other Court and shall be continued and disposed also by such other Court in accordance with law as if

such Suit and Proceedings had been instituted or commenced in such other Court under this Act.

6. Undoubtedly when the Suit, from the Decree of this appeal is preferred, is valued at Rs. 80,000/- as aforesaid, and hence by virtue of Section 30(3) of the Gujarat Civil Courts Act, 2005, this Appeal stands transferred to concerned Court of District Judge.

7. However, as per the note placed by the office vide Orders passed this Court in Civil Application No. 9336 of 1997 and Misc. Civil Application No. 29/99, the appellant has deposited an amount of Rs. 27,000/- on 4th May 1999 and Rs. 29,000/- on 15th June 1999, the Nazir Department of this Court has invested all these amounts in FDR.

8. The amount deposited by the appellant as above said is since invested, to avoid loss of interest, to any of the parties encashing the FDRs prematurely, it would be in the interest of justice that such invested amounts may for the present, remain as it is with the same terms and conditions, if any, directed by the Court,

subject to any interim or final orders of the concerned District Judge, where this First Appeal stands transferred in this respect. It is further directed that if the fixed deposit receipts are matured earlier than the disposal of the present First Appeal before the District Judge, the Nazir Department shall encash the fixed deposit receipts on maturity and shall remit the amount to the concerned District Court immediately and concerned District Judge shall pass necessary Orders in this respect. On final disposal of this First Appeal by the District Court, the said Court shall pass necessary Orders in respect of these two fixed deposit receipts, if this First Appeal is disposed of before the maturity of this fixed deposit receipts. In case of difficulties in respect of invested amount in fixed deposit receipts, any of the parties will be at liberty to file Civil Application for obtaining relief in the interest of justice.

9. In view of the above, this Appeal stands transferred to the concerned Court of District Judge for disposal in accordance with law with above said directions of this Court. The registry is directed to transfer the appeal

accordingly at the earliest. For the purpose of this Court, the appeal stands disposed of.

(J.R.VORA, J.)

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